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**HERZFELD + RUBIN**  
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June 28, 2022

**VIA ECF**

Honorable Madeline Cox Arleo  
United States District Court  
District of New Jersey  
Martin Luther King Federal Building  
50 Walnut Street  
Newark, New Jersey 07101

Re: *Zhao, et al. v. Volkswagen Group of America, Inc., et al.*  
Case No. 2:21-cv-11251-MCA-LDW

Dear Judge Arleo:

The Parties respectfully submit this joint letter to advise Your Honor of an issue and request permission to implement the Parties' proposed responsive plan. Pursuant to the Preliminary Approval Order (ECF 36), on June 10, 2022, the Class Notice was timely mailed to over 4 million potential Settlement Class Members in the manner and form approved by the Court (Id.; see also Class Notice forms, ECF 25-3, Exhs 1-2). As we had previously advised the Court, the Settlement Class Vehicles are determined and identified by a specific VIN list, and the Settlement Class Members relating to all such VINs were identified using DMV records of all States and Puerto Rico that were obtained by Polk/IHS Markit, a "gold standard" third-party company retained by the Settlement Administrator to obtain such information. The Class Notices were mailed to all such reasonably identifiable individuals/entities that are in the Settlement Class.

All of the Settlement Class Members that should have been mailed the Class Notice were, in fact, mailed the Class Notice in a timely and proper manner. Counsel for Volkswagen recently discovered, however, that the Notice for the Volkswagen Class Vehicles inadvertently omitted several models from the list of model vehicles whose VINs may be included in the Settlement Class.<sup>1</sup> Although the Settlement Class Members who own(ed) or lease(d) those omitted models were properly and timely mailed the Class Notice, and the Notice explicitly instructs the Settlement Class Members to check the VIN look-up portal on the settlement website, [www.WaterPumpSettlement.com](http://www.WaterPumpSettlement.com), to confirm whether their particular vehicles are Settlement Class Vehicles, to avoid any potential uncertainty the Parties wish to mail these involved

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<sup>1</sup> The inadvertently omitted VW models are the 2019 Beetle, 2015-2016 Eos, 2015-2021 GTI, and 2015-2017 Tiguan. Of the more than 4 million persons/entities that were mailed the Class Notice, only 487,134 are affected by this issue. None of the other Settlement Class Members that received the Volkswagen Class Notice are affected, since their model vehicles are listed, and the Class Notice for the Audi vehicles includes all applicable Audi models.

AFFILIATES

NEW YORK, NEW YORK

BUCHAREST, ROMANIA

LOS ANGELES, CALIFORNIA

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Settlement Class Members (approximately 487,134 of them) a follow-up post card stating the following:

On June 10, 2022, you were mailed Class Notice of a proposed Class Settlement related to the Primary Engine Water Pumps of certain Volkswagen vehicles. The Class Notice inadvertently omitted the following model vehicles from the list of vehicles that, subject to confirmation of the particular vehicle's VIN number, may be Settlement Class Vehicles: 2019 Beetle, 2015-2016 Eos, 2015-2021 GTI, and 2015-2017 Tiguan. Records indicate that you are a current or former owner or lessee of one of these model vehicles. Not all vehicles within these models and model years are Settlement Class Vehicles. To check if your vehicle is a Settlement Class Vehicle, please check the VIN Lookup Portal at [www.WaterPumpSettlement.com](http://www.WaterPumpSettlement.com) and type in your vehicle's VIN to see if it is covered by the Settlement. **You are not required to do anything in response to this post card. However, your options are set forth in the Class Notice, and please be advised that if you wish to file an objection or to request exclusion from the Settlement, your new deadline for doing so is \_\_\_\_\_. In addition, your new deadline for filing a Claim for Reimbursement under the Settlement's terms is \_\_\_\_\_. The procedures and requirements for objecting, requesting exclusion and/or filing a claim are set forth in Sections 7, 10 and 16 of the Class Notice that was mailed to you. If you did not retain the Class Notice, you can download a copy, and get more information about the Settlement, at [www.WaterPumpSettlement.com](http://www.WaterPumpSettlement.com). You may also call the Claim Administrator at (833) 711-0261 if you have any questions.**

As indicated above, this issue only applies to these 487,134 persons/entities, and not any of the other persons/entities that were mailed the Class Notices since the models of their vehicles are listed in the Class Notice. In addition, this issue does not require any modification to the Settlement Class or Settlement Class Vehicle definitions as currently set forth in the Settlement Agreement and the Preliminary Approval Order.

The Settlement Administrator has indicated that printing and mailing the proposed post cards will take approximately 10 business days. In fairness to these particular persons/entities who will be mailed the post card, the Parties respectfully propose that their (and only their) deadlines to object, opt-out or file a claim under the Settlement be extended as follows:

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~~45 days after post card mailing – deadline to Object or Opt-out~~  
90 days after post card mailing – deadline to file a claim.

This will necessitate a rescheduling of certain dates including the date of the final fairness hearing. Accordingly, the Parties respectfully propose that the deadlines for briefs responding to any objections be extended from August 17, 2022 to September 16, 2022, and that the Final Fairness Hearing be rescheduled from August 30, 2022 to ~~September 30, 2022~~, *October 19 at 2 p.m.*, or a date thereafter that is convenient for the Court. The approved Class Notice states that the date of the final fairness hearing is subject to change and any such change will be

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posted on the settlement website ([www.WaterPumpSettlement.com](http://www.WaterPumpSettlement.com)). If the Court approves this joint proposed plan, the settlement website will be updated accordingly.

Again, since none of the other potential Settlement Class Members who were mailed a Class Notice are affected, their deadlines to object, opt-out and/or file a claim do not need to be adjusted and should remain as set forth in the Preliminary Approval Order.

The Parties respectfully request that Your Honor approve this plan and the limited extended dates proposed herein by endorsing this letter below.

Thank you for your consideration, and we are, of course, available to answer any questions the Court may have.

Respectfully submitted,

<p>By: <u>/s/ Homer B. Ramsey</u></p> <p>Michael B. Gallub, Esq. (<i>pro hac vice</i>)  Homer B. Ramsey, Esq.  Brian T. Carr, Esq. (<i>pro hac vice</i>)  <b>HERZFELD &amp; RUBIN, LLC</b>  354 Eisenhower Parkway  Livingston, New Jersey 07039  Telephone: (973) 535-8840  mgallub@herzfeld-rubin.com  hramsey@herzfeld-rubin.com  bcarr@herzfeld-rubin.com</p> <p><i>Attorneys for Defendants  Volkswagen Group of America, Inc.,  Volkswagen Aktiengesellschaft, and Audi  Aktiengesellschaft</i></p>	<p><u>/s/ Bonner C. Walsh</u></p> <p>Matthew D. Schelkopf  Joseph B. Kenney  <b>SAUDER SCHELKOPF LLC</b>  1109 Lancaster Avenue  Berwyn, PA 19312  (T): (610) 200-0581  (F): (610) 421-1326  mds@sstriallawyers.com  jbk@sstriallawyers.com</p> <p>Bonner C. Walsh  <b>Walsh PLLC</b>  1561 Long Haul Road  Grangeville, ID 83530  (T): (541) 359-2827  (F): (866) 503-8206  bonner@walshpllc.com</p> <p><i>Attorneys for Plaintiffs</i></p>
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SO ORDERED:

  
Madeline Cox Arleo  
United States District Judge

0/28/22